IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8598 of 2005

Between:

1 Karri Ramadas S/o. Late Veeranna, Hindu
R/o Kummarigunta Vill & PO, Saravokota Mandal, Srikakulam Dt.
2 Ponnana Krishna Rao S/o. Late Lakshmi Narayana
R/o Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
3 Kalyanam Ramamohan Rao S/o. Rama Rao, Hindu
R/o Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
4 Gollangi Papayya S/o. Krishnamurhty, Hindu
R/o Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
5 Pagoti Narayana S/o. Late Ramanna, Hindu
R/o. Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
6 Kattiri Appa Rao S/o. Late Papanna, Hindu
R/o. Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
7 Ponnana Narasimhulu S/o. Late Lakshmi Narayana,
R/o. Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
8 Kalyanam Chinnammadu W/o. Sankara Narayana
R/o. Aludu Village & PO, Saravokota Mandal, Srikakulam Dt.
9 Palli Appala Narasamma W/o. Karrenna , Hindu
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
10 Palli Bojjaiah S/o. Late Jogulu , Hindu
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
11 Vana Venkataramana S/o. Late Suryanarayana , Hindu
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
12 Simhadri Brahmaiah S/o. Sankara Narayana,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
13 Balaga lakshminarayana S/o. Veeranna
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
14 Saravakota Sanyasamma W/o. Mokhalingam, Hindu,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
15 Saravakota Simhachalam S/o. Bodenna, Hindu,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
16 Karre Sriramulu S/o. Suryanarayana, Hindu,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.

17 Kornu Raja Rao S/o. Ramamurhty Hindu,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
18 Gunda Narayanamma W/o. Karuvodu, Hindu,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.
19 Palle Lingamurhty S/o. Late Simmanna Hindu,
R/o. Kummarigunta Village & PO, Saravokota Mandal, Srikakulam Dt.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Rep. by its Principal Secretary, Hyderabad.
2 The District Collector, Srikakulam, Srikakulam District.
3 The Revenue Divisional Officer-cum- Land Acquisition Officer, Palakonda, Palakonda Mandal, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or direction, more particularly in the nature of writ of Mandamus declaring the action of the Respondent No.1, in dispensing with Section 5-A enquiry under Land Acquisition Act while resorting to emergency Powers conferred on the 3rd Respondent for acquiring the lands of the Writ Petitioners invoking section 17 of the Act and issuing section 4(1) Notification covered by G.O.Rt.No. 231 (PR & RD) (P.T.S-III), dt. 19-2-2005 and paper publication dt. 24-3-2005 in Vaartha Telugu Daily (Srikakulam District Edition) is against the intendment of the provisions of the Land Acquisition Act, Violative of the principles of natural justice and is arbitrary, biased, illegal, devoid of jurisdiction and pass necessary orders.

Counsel for the Petitioner : MR. K.S.GOPALA KRISHNAN

Counsel for the Respondents : GP FOR REVENUE

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.8598 OF 2005

ORDER :

This writ petition is filed seeking a declaration that the action of the 1st respondent in invoking the urgency clause under Section 17(4) of the Land Acquisition Act, 1894 (for short, 'the Act'), thereby dispensing with the enquiry under Section 5-A of the Act under the impugned notification dated 19-02-2005 issued

under Section 4(1) of the Act as arbitrary and illegal.

Under the impugned notification dated 19-2-2005 an extent of 0.56.5 hectares situated in different survey numbers in Sarvakota, Srikakulam District, which include the lands of the petitioners, was sought to be acquired for the public purpose for laying a road between Kothur and Sarvakota villages.

The case of the petitioners is that the land in question was sought to be acquired earlier for the same purpose in the year 2000, however on a representation dated 27-10-2000 made by the petitioners the proposals were dropped. It is alleged that in view of the change of the political scenario, at the instance of the present ruling Party the respondents have initiated the impugned acquisition proceedings for formation of the road by invoking the urgency clause under Section 17 of the Act. It is contended that the respondents failed to apply their mind to the facts and circumstances and particularly the fact that the proceedings for the same purpose were dropped earlier, while invoking the urgency clause and thereby depriving the petitioners an opportunity to file the objections under Section 5-A of the Act. It is contended that the entire action is politically motivated and vindictive apart from being discriminatory, arbitrary and illegal.

I have heard the learned Counsel for the petitioners, learned Government Pleader appearing for the respondents and perused the material on record.

The acquisition of the land in question is for a public purpose for formation of a road between Kothur and Sarvakota Villages. The only grievance of the petitioners appears to be that since such a proposal made about five years ago was dropped, it cannot be said that there is any immediate need for formation of road and therefore the action of the respondents in invoking the urgency clause under the impugned notification is unwarranted and unjustified. A copy of the news-item published in ‘Vaartha daily’ dated 18-10-2000 filed by the petitioners shows that there was such a proposal in the year 2000. In the said news-item, it was also stated that the long pending representations of the residents of Kothur were considered by the District

Collector in his visit to Sarvakota Mandal and having noted the fact that there was no road facility to the Mandal head-quarters at Sarvakota from Kothur village covering a distance of 1½ Kms, the District Collector has ordered to send proposals for purchase of the required land for the said purpose and in pursuance thereof the Mandal Revenue Officer, after a detailed enquiry, identified that Ac.1.29 cents of land is required for formation of the road.

From the said news-item, it is evident that the formation of road between Sarvakota and Kothur is a long felt need of the villagers. May be that, the said proposal made in the year 2000 could not be materialised for some reason or other, but on that ground it cannot be said that there is no immediate need for formation of road.

The mere plea that the Government had not formed an opinion as to the urgency or the vague allegation that the Government did not apply its mind to the question of urgency, in the absence of any material to substantiate the same cannot be a ground warranting interference by this Court under Article 226 of the Constitution of India.

The two decisions cited by the learned Counsel for the petitioners namely UNION OF INDIA v. KRISHAN LAL ARNEJA and UNION OF INDIA v. MUKESH HANS are clearly distinguishable on facts. There can be no dispute about the ratio laid down in the said cases, but the same does not attract to the case on hand. In the absence of any material to show that the respondents failed to apply their mind while dispensing with the enquiry under Section 5-A of the Act under the impugned notification and particularly in the absence of any allegation of mala fides, I do not see any justifiable reason to grant the relief as prayed for.

Accordingly, the Writ Petition is dismissed. No costs.

26th April, 2005.

gbs

To

1 The Principal Secretary, Government of Andhra Pradesh, Hyderabad.
2 The District Collector, Srikakulam, Srikakulam District.
3 The Revenue Divisional Officer-cum- Land Acquisition Officer, Palakonda, Palakonda Mandal, Srikakulam District.

4. Two CCs to G.P. for Revenue, High Court of AP Bldgs, Hyderabad (OUT).

5. Two CD copies.